

SENATE BILL 1277

By Ketron

AN ACT to amend Tennessee Code Annotated, Title 70,
relative to a landowner's liability to persons using
land.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 70-7-101, is amended by deleting the
section in its entirety and by substituting instead the following:

70-7-101.

As used in this part unless the context otherwise requires:

(1) "Land" or "premises" means any and all real property,
waterway, private way, tree, or any building or structure located on that
real property, waterway or private way, whether owned by a private or
governmental entity, the Tennessee valley authority or public school
facility; provided, however, land or premises does not include a
landowner's principal place of residence or any improvement erected for
recreational purposes immediately surrounding the residence, including,
but not limited to, a swimming pool, tennis or badminton court, barbecue
or horse shoe pit, jacuzzi, hot tub or sauna;

(2) "Landowner" means the legal title holder or owner of land or
premises, the person entitled to immediate possession of the land or
premises, or any lessee, occupant or other person in control of the land or
premises, including, but not limited to a governmental entity or public
school; and

(3) "Recreational use agreement" means a written authorization granted by a landowner to a governmental body, nonprofit organization, or individual that permits public access to a portion or the entirety of the land or premises for the purpose of recreational activities such as hunting, fishing, trapping, camping, water sports, white water rafting, canoeing, hiking, sightseeing, animal riding, bird watching, dog training, boating, caving, fruit and vegetable picking for the participant's own use, nature and historical studies and research, rock climbing, skeet and trap shooting, skiing, off-road vehicle riding, cutting or removing wood for the participant's own use, or any other activity undertaken for exercise, recreation, education, relaxation, or pleasure.

SECTION 2. Tennessee Code Annotated, Section 70-7-102, is amended by deleting the section in its entirety and by substituting instead the following:

70-7-102.

(a) A landowner owes no duty of care to keep the landowner's land or premises safe for entry or use by another for the purpose of recreational activities such as hunting, fishing, trapping, camping, water sports, white water rafting, canoeing, hiking, sightseeing, animal riding, bird watching, dog training, boating, caving, fruit and vegetable picking for the participant's own use, nature and historical studies and research, rock climbing, skeet and trap shooting, skiing, off-road vehicle riding, and cutting or removing wood for the participant's own use, or any other activity undertaken for exercise, recreation, education, relaxation, or pleasure, nor shall that landowner be required to give any warning of a hazardous condition, use of, structure, or activity that may be on that land or premises, except as provided in § 70-7-104.

(b) A landowner owes no duty of care to keep the landowner's land or premises safe for entry or use by another for the purpose of recreational non-commercial aircraft operations or recreational non-commercial ultra light vehicle operations on private airstrips, except as to known hazards or defects and as provided in § 70-7-104.

SECTION 3. Tennessee Code Annotated, Section 70-7-103, is amended by deleting the section in its entirety and by substituting instead the following:

70-7-103.

Any landowner or landowner's agent who gives permission to another person to hunt, fish, trap, camp, engage in water sports, participate in white water rafting or canoeing, hike, sightsee, ride animals, bird watch, train dogs, boat, cave, pick fruit and vegetables for the participant's own benefit, engage in nature and historical studies and research, participation in rock climbing, shoot skeet or trap, ski, ride off-road vehicles, engage in recreational non-commercial aircraft operations or recreational non-commercial ultra light vehicle operations on private airstrips, cut and remove wood for the participant's own use, or undertake any other activity for exercise, education, relaxation, or pleasure, does not by giving such permission:

(1) Extend any assurance that the premises are safe for such purpose;

(2) Constitute the person to whom permission has been granted to legal status of an invitee to whom a duty of care is owed; or

(3) Assume responsibility for or incur liability for any injury to such person or purposely caused by any act of such person to whom permission has been granted except as provided in § 70-7-104.

SECTION 4. Tennessee Code Annotated, Section 70-7-105, is amended by deleting the section in its entirety and by substituting instead the following:

70-7-105.

(1) Any person eighteen (18) years of age or older who enters the land of another for the purpose of camping, fishing, hunting, hiking, dog training, cutting or removing firewood, or engaging in recreational non-commercial aircraft operations or recreational non-commercial ultra light vehicle operations on private airstrips, for such person's use for a consideration may waive the landowner's duty of care to that person to protect against injuries that arise from camping, fishing, hunting, hiking, dog training, cutting or removing firewood, or recreational non-commercial aircraft operations or recreational non-commercial ultra light vehicle operations on private airstrips, so long as the waiver does not limit the landowner's liability for gross negligence, willful or wanton conduct, or failure to guard or warn against a dangerous condition, use, structure or activity.

(2) Any person entering the land of another under a recreational use agreement may waive, in writing, the landowner's duty of care to such person for injuries that arise from the recreational use of the land or premises, if such waiver does not limit liability for gross negligence, willful or wanton conduct, or failure to guard or warn against a dangerous condition, use, structure or activity.

SECTION 5. This act shall take effect July 1, 2011, the public welfare requiring it, and shall apply to any tort action in which a complaint has not been filed prior to the effective date of this act.